

REMARKS

Claims 1-33 are now pending in the application. Claims 1, 2, 3, 7, 9, 10, 14, 19, and 27 have been amended. Claims 1, 14, and 27 include the limitation of the third party asking the member of the organization one question related to the member's pulse and the member providing one answer to the pulse question. Support for such amendments is found in the Specification at Paragraphs [0018] through [0020]. Minor amendments have been made to claims 2, 3, 7, 9, 10, and 19 to provide proper antecedent basis based on the amended claims 1, 14, and 27 and to clarify language in the claims. The amendments to the claims are of equivalent scope as originally filed, and thus, are not narrowing amendments. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the remarks contained herein.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-10, 12, and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by D'Alessandro (U.S. Pat. No. 6,556,974). Claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Friedman (U.S. Pat. No. 6,591,256). These rejections are respectfully traversed.

At the outset, Applicant notes that independent claims 1, 14, and 27 have been amended to include the limitation of the third party asking the member of the organization one question related to the member's pulse and the member providing one answer to the pulse question. As detailed in the Specification at Paragraph [0012], the pulse response provides insight to the pace of work, efficiency of work, and job satisfaction. Applicant has amended the claims per the Examiner's instructions, but

Applicant respectfully and strongly traverses the Examiners correlation of the pulse measurement with other employee evaluation standards.

D'Alessandro discloses a method for evaluating business performance. The D'Alessandro method requires that the user to answer a plurality of questions (Column 2, lines 60-67; Column 3, lines 32-35; Column 6, lines 50-53; Column 3, lines 64-65; and Column 7, lines 19-47) and the questions include more than one component or answer type (Column 7, lines 8-18; Column 9, lines 7-10). The answers are categorized based on pre-selected business performance criteria and the data is selectively evaluated to determine abilities (leadership, strategic planning, human resource development, etc.) by combining answers to particular questions or from particular groups of people (Column 3, line 63 to Column 4, line 4; and Column 8, line 53 to Column 9, line 53). D'Alessandro does not disclose, however, a method of predicting and influencing the performance of an organization by collecting one variable - the pulse - of the members to obtain feedback on multiple factors. D'Alessandro also does not disclose correlating one pulse question with one pulse answer for analysis. As D'Alessandro does not disclose each and every element of Applicant's invention, the §102(b) rejection is improper for claim 1 and dependents thereon, claims 2-10, 12, and 13. Withdrawal of this rejection is respectfully requested.

Friedman discloses a method of selecting appropriate business application software on an application service provider. The business software is organized so that the user can identify the particular problem (i.e. determining the minimum direct transportation costs for interstate transfer of widgets) they desire to solve (Column 5, lines 7-41). After the problem is identified, the business software suitable for solving the

problem is launched (Column 2, line 36 to Column 3, line 14; and Column 4, lines 62-67). Friedman does not relate to evaluating the performance of an organization, but is rather a software location service. Friedman does not disclose a method of evaluating an employee's pulse using third-party data analysis of collected pulse data. As Friedman does not teach each and every element of Applicant's invention, the §102(e) rejection is improper for claim 1. Withdrawal of this rejection is respectfully requested.

REJECTION UNDER 35 U.S.C. § 103

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over D'Alessandro (U.S. Pat. No. 6,556,974) in view of obviousness. Claims 14-33 contain a method and system with the same limitations as those of Claims 1-13. Claims 14-33 are rejected by the same art used in Claims 1-13. This rejection is respectfully traversed.

As stated above, D'Alessandro does not disclose a method of measuring the pulse of an organization or assessing member performance based on the pulse. Furthermore, D'Alessandro specifically teaches the use of a plurality of questions to evaluate business performance and does not use a one question-one response technique. As defined in the Specification, the pulse clearly correlates to the pace of work, the efficiency of work, and job satisfaction of Applicant's invention is evaluated from a single response to a single question and does not require the selectivity of answers from a variety of questions having a variety of input formats like the system of D'Alessandro. Applicant's system is simple for the member and provides a high level of member compliance. Moreover, the pulse is unlike any other member performance

metric because it allows for the assessment of several distinct factors from one response. As D'Alessandro does not teach or suggest Applicant's one question-one answer system used to determine the pulse of an individual or of an organization, the §103(a) rejection is improper for claims 14-33. Withdrawal of these rejections is respectfully requested.

Applicant further notes that the other references of record Hudy, Barney et. al, and Sanders disclose using several questions with each question being particular to a certain aspect of performance and grouping the questions to assess multiple aspects of employee performance. Applicant believes that these references are patentably distinct from the present invention for the reasons stated above herein.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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